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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Open Network Architecture Tariffs )  
of the Bell Operating Companies )  
\_\_\_\_\_ )

CC Docket No. 92-91

COMMENTS

Sprint Communications Company, L.P., hereby respectfully submits its comments in support of MCI's "Petition for Reconsideration" (filed January 14, 1994) of the Commission's ONA Investigation Final Order (FCC 93-532, released December 15, 1993) in the above-captioned proceeding. As MCI correctly points out, the "secret ratemaking" which characterized the filing and investigation of the BOCs' ONA tariffs prevented interested parties from thoroughly evaluating the BOCs' ONA ratemaking processes and the resulting rates. Thus, neither the Commission nor access customers can be assured that such rates are just and reasonable, as is required by the Act.

Sprint agrees with MCI that the measures taken by US West and Bellcore (on behalf of the other BOCs), and sanctioned by the Commission, to protect the "proprietary" and "confidential" information and computer models used to develop the ONA rates were so extreme as to deny intervenors sufficient opportunity to fully analyze such information, to perform sensitivity analyses of questionable input factors, or to evaluate and possibly expand the analyses performed by other intervenors in this proceeding. The protective arrangements

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adopted in the ONA investigation go far beyond those used in any other Commission proceeding of which Sprint is aware. Nondisclosure agreements are the traditional means of protecting information which is both relevant and sensitive. For example, in various formal complaint proceedings (e.g., Sprint v. AT&T, File No. E-90-113, which encompassed sensitive competitive information regarding Tariff 12 offerings) and other rate investigations (e.g., the SNFA investigation (4 FCC Rcd 6767 (1989))), the Commission has ordered that relevant information be provided to intervenors, if necessary pursuant to protective agreements. These agreements were deemed sufficient to satisfy the confidentiality/nondisclosure concerns of the parties involved. The BOCs have failed to offer a reasonable explanation as to why a nondisclosure agreement would not also have been sufficient protection in the ONA investigation.<sup>1</sup> Their refusal to accept nondisclosure agreements here is especially puzzling given that the SCIS/SCM models have apparently been disclosed (pursuant to confidentiality agreements) in state regulatory proceedings.

Sprint is deeply concerned that the precedent set in the instant proceeding will be applied to other proceedings as well, including any examination of new services or new rate elements which are developed using switch costing models such

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<sup>1</sup>As Sprint has previously demonstrated (see, e.g., Sprint's Comments in support of MCI's Application for Review, pp. 3-4), the BOCs' fear of "reverse engineering" of their costing models is groundless. Perhaps the only area in which special care would have to be taken concerns price discounts from switch vendors.

as SCIS and SCM. Although the Commission has stated that it does not expect the "unusual procedures" employed in the ONA investigation to be employed in future proceedings without "substantial" justification (Order, n. 163), such expectation reflects the triumph of hope over experience and has already been shown to be overly optimistic. The BOCs have already refused to provide certain ratemaking data in the on-going investigation of interstate 800 database access rates (CC Docket No. 93-129), again citing the purported confidentiality of the SCIS/SCM models. If the BOCs are allowed to keep secret key information used to develop rates, there will be no way to ensure that any such tariffed rates are just and reasonable.

Because the record before it in the instant investigation is incomplete, the Commission's finding that the BOCs' ratemaking methods were "generally sound" (Order, para. 3) is unwarranted, and should be reconsidered. The Commission should accordingly grant MCI's Petition, and reopen the ONA investigation "in a manner that permits meaningful participation by intervenors" (MCI, p. 8).

Respectfully submitted,

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January 27, 1994

CERTIFICATE OF SERVICE

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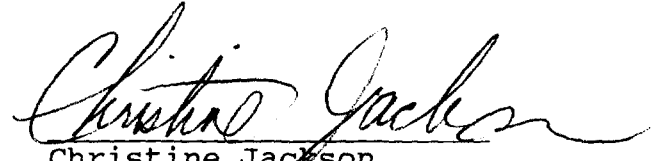
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